

REMARKS

Applicants respectfully request entry of the amendments and remarks presented herein. The abstract and specification have been amended herein to correct typographical errors. Claim 1 has been amended to recite that the implant is characterised in that it is configured to treat cystocele. Support for this amendment can be found in previous claim 1 and throughout Applicants' specification. In addition, claims 1, 14, 15, and 17 have been amended for grammatical purposes and to correct typographical errors, claim 8 has been amended to depend from claim 6, claim 20 has been amended to remove the reference to multiple claims, and claims 10, 11, 12, 24, 25, and 27 have been amended to remove "preferential" language. No new matter has been added.

Applicants acknowledge the Examiner's allowance of claims 30-34. In light of these amendments and the following remarks, Applicants respectfully request reconsideration and allowance of claims 1-29.

Rejection under 35 U.S.C. §112

The Examiner rejected claims 8, 10-12, and 17-29 as allegedly being indefinite. The Examiner stated that the angle recited in claim 8 contradicts that recited in claim 7. The Examiner also stated that the term "preferably" in claims 10-12, 24, 25, and 27 is indefinite. In addition, the Examiner asserted that the phrases "means of traction" and "means for cutting" in claim 17 are indefinite.

Claim 8 has been amended herein to depend from claim 6 rather than from claim 7. Claims 10-12, 24, 25, and 27 have been amended to remove the "preferably" language. In addition, claim 17 has been amended to recite a "means for traction" and a "means for allowing cutting."

In light of the above, Applicants respectfully request withdrawal of the rejection of claims 8, 10-12, and 17-29 under 35 U.S.C. § 112, second paragraph.

Rejection under 35 U.S.C. § 102

The Examiner rejected claims 1, 2, 5, 6, 13, 15, and 16 as being allegedly being anticipated by U.S. Patent No. 2,199,690 (the Bullard patent). The Examiner alleged that the Bullard patent discloses an implant (e.g., in Figure 4) having a rectangular support body 11, two anterior straps 13, two posterior straps 12, and two middle straps positioned between the anterior and posterior straps, where each pair of straps has a strap lying on one side of a sagittal plane or axis.

Applicants respectfully disagree. Claim 1, as amended, recites an implant configured to treat cystocele. The Bullard patent discloses a harness for a gas mask, not an implant configured to treat cystocele. Thus, the present claims are novel over the Bullard patent.

In light of the above, Applicants respectfully request withdrawal of the rejection of claims 1, 2, 5, 6, 13, 15, and 16 under 35 U.S.C. § 102(b).

Rejection under 35 U.S.C. § 103

The Examiner rejected claims 3, 4, 7-12, and 14 under 35 U.S.C. § 103(a) as allegedly being obvious in light of the Bullard patent, for the reasons of record.

Applicants respectfully disagree. The Bullard patent discloses a harness for a gas mask, while the present claims recite an implant configured to treat cystocele. The two are unrelated, and have no similarity in function.

MPEP § 2141.01(a) is particularly instructive in this matter:

The examiner must determine what is "analogous prior art" for the purpose of analyzing the obviousness of the subject matter at issue. "In order to rely on a reference as a basis for rejection of an applicant's invention, the reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992) ("A reference is reasonably pertinent if, even though it may be in a different field from that of the inventor's endeavor, it is one which, because of the matter with which it deals, logically would have commended itself to an inventor's attention in considering his problem."); *Wang Laboratories Inc. v. Toshiba Corp.*, 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993); and *State Contracting & Eng'g Corp. v. Condotte America, Inc.*, 346

F.3d 1057, 1069, 68 USPQ2d 1481, 1490 (Fed. Cir. 2003) (where the general scope of a reference is outside the pertinent field of endeavor, the reference may be considered analogous art if subject matter disclosed therein is relevant to the particular problem with which the inventor is involved).

With regard to the instant application, it is abundantly clear that: (i) the Bullard patent is neither in the field of Applicants' endeavor nor reasonably pertinent to the particular problem of treating cystocele in women, with which the present inventors are concerned; (ii) the Bullard patent would not logically have extended itself to Applicants' attention in considering their problem of treating cystocele; and (iii) the subject matter of the Bullard patent pertaining to a gas mask is in no way relevant to Applicants' implant for treatment of cystocele. As such, the Bullard patent does not render the present claims obvious.

In light of the above, Applicants respectfully request withdrawal of the rejection of claims 3, 4, 7, 8, 9, 10, 11, 12, and 14 under 35 U.S.C. § 103(a).

Allowable subject matter

Applicants acknowledge the Examiner's allowance of claims 30-34.

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Page : 15 of 15

Attorney's Docket No.: 21173-053001

CONCLUSION

Claims 1-34 remain in this application, and claims 30-34 have been allowed. Applicants submit that present claims 1-29 are in condition for allowance, which action is respectfully requested. The Examiner is invited to telephone the undersigned practitioner if such would further prosecution.

Please apply any charges or credits resulting from this communication to deposit account 06-1050.

Respectfully submitted,

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